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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,720	Applicant(s) BOZIONEK ET AL.
	Examiner LUAT PHUNG	Art Unit 2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 30 July 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 20,21,23-27,29-36 and 38-43 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 20,21,23-27,29-36 and 38-43 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. Applicant's request for reconsideration of the restriction requirement of the last Office action is persuasive and, therefore, the restriction requirement of that action is withdrawn.
3. Applicant's arguments have been fully considered but they are not deemed to be persuasive.
4. On page 5, applicants argue that:

In claim 41 all devices and modules are recited as elements of a computer. In claim 39, all devices and modules are recited as "in the PBX".

Additionally, on page 6, applicants argue that:

Detampel also teaches a distributed system, having little correspondence to Applicants' claimed integrated topography.

Examiner respectfully disagrees because:

The combination of Jeong, Avaramudan and Detampel discloses all of the devices and modules of claims 41 and 39, as recited in the rejection of those claims in the instant application. Additionally Pinard teaches a PBX implemented using H.323 gatekeeper (title; incorporation of PBX call control function into the Gatekeeper per col. 5, lines 27-31). Furthermore it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

It is noted that new claim 41 is based on original claim 37, and the amended claim now includes new limitation "due to data traffic loading thereof", *inter alia*. Additionally new claim 39 is based on original claim 19, and the amended claim now includes new limitation "select[ing] ... based on a telecommunications load", *inter alia*.

Claim Objections

5. Claims 20 and 43 are objected to because of the following informalities:
Claim 20 recites "wherein the telephone and/or video conference data processing device *and the data processing device*"; for the purpose of examining, the duplicate reference to "data processing device" is removed.

Claim 43 should conclude with a period instead of a semicolon.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 20, 21, 23-27, 29-32, 39, 40, 42 and 43 are rejected under U.S.C. 103(a) as being unpatentable over Jeong (US 6,801,540), in view of Avaramudan, et al (US 6,584,076), and further in view of Detampel, et al. (US Pub. 2001/0002927).

Regarding **claims 39 and 42**, Jeong discloses a data communications method for use in a data communications system comprising:

a plurality of clients (terminals per Fig. 1, elements 300's, 400's, 500's) connected by at least one network (LAN per Fig. 1) to a private branch exchange (PBX) (Fig. 1, element 100), wherein a first of the clients (terminals in PSTN per Fig. 1, elements 300s) communicates with the PBX using a first data transmission protocol (PSTN signal per col. 4, lines 51-61), and a second of the clients (H.323 terminals per Fig. 1, elements 400s) communicates with the PBX using a second data transmission protocol; (H.323 signal per col. 4, lines 51-61; col. 4, lines 6-50)

a gatekeeper module in the PBX comprising an interface device supporting both the first and second data transmission protocols, wherein the gatekeeper module converts transmission data between the first and second protocols (H.323 gateway converting PSTN signals and H.323 signals per col. 4, lines 51-61; call converter converting between H.323 and proprietary protocols per col. 4, lines 20-50; Fig. 1)

Jeong does not explicitly disclose:

a plurality of telephone and/or video conference data processing devices in gateway modules in the PBX supporting the first data transmission protocol;

a resource control device in the PBX that selects one of the telephone and/or data processing devices to execute a teleconference based on a telecommunications load and a gateway resource availability;

wherein the gatekeeper module forwards data converted to the first protocol to the selected telephone and/or video conference data processing device, which executes the teleconference among the first and second clients and at least a third one of the clients;

wherein clients using the first data transmission protocol and clients using the second data transmission protocol can jointly hold a telephone and/or video conference with each other via the selected telephone and/or video conference data processing device.

Avaramudan from the same or similar fields of endeavor discloses:

a plurality of telephone and/or video conference data processing devices supporting the first data transmission protocol; (conference bridges communicating with

device servers using a common call control protocol per col. 3, line 53 to col. 4, line 36, col. 4, line 51 to last line)

a resource control device that selects one of the telephone and/or data processing devices to execute a teleconference based on a gateway resource availability; (call coordinator selecting conference bridge as function of capabilities to achieve the desired conference call per col. 6, lines 42-59) it is obvious to one of ordinary skill in the art at the time of the invention that a conference bridge, a system resource, must be available to be selected to set up a conference call;

wherein the gatekeeper module forwards data converted to the first protocol to the selected telephone and/or video conference data processing device (device server translating protocol of device to a common control protocol to communicate with conference bridge per col. 3, line 53 to col. 4, line 36, col. 4, line 51 to last line) which executes the teleconference among the first and second clients and at least a third one of the clients; (conference bridge used to set up conference call consisting of three or more devices per col. 4, lines 37-59, col. 6, lines 41-59)

wherein clients using the first data transmission protocol and clients using the second data transmission protocol can jointly hold a telephone and/or video conference with each other via the selected telephone and/or video conference data processing device. (devices with specific signaling protocols are in a conference call through use of the conference bridge per col. 4, lines 16-29, col. 7, lines 8-24).

Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement the conference bridges and call coordinator as

suggested by Avaramudan in the PBX of Jeong since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. The motivation for doing so would have been to support conference calling in the PBX.

The combination of Jeong and Avaramudan discloses all of the subject matter except a resource control device that selects one of the telephone and/or data processing devices based on a telecommunications load. Detampel from the same or similar fields of endeavor discloses determining if sufficient ports are available (Fig. 5, element 503) and accordingly selecting a conference bridge considering load control and routing cost and using criteria including availability, load control, least-cost routing and component failure, for example, selecting one with the most available conferencing ports (para. 5, 57). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine the PBX with conference bridges of Jeong and Avaramudan with the conference bridge selection of Detampel by selecting one for teleconference based on load and resource availability. Further it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. The motivation for doing so would have been to provide flexibility and cost saving.

Regarding **claim 20**, Avaramudan further discloses wherein the telephone and/or video conference data processing device is arranged in a computer. (col. 2, line 61 to col. 3, line 17)

Regarding **claim 21**, Avaramudan further discloses wherein the computer is a server. (col. 2, line 61 to col. 3, line 17)

Regarding **claim 23**, Jeong further discloses wherein the second data transmission protocol is an open, standardized protocol. (col. 4, line 28)

Regarding **claim 24**, Jeong further discloses wherein the second data transmission protocol is an H.323 or H.225/H.245-based protocol or an SIP-based protocol. (col. 4, line 28)

Regarding **claim 25**, Jeong further discloses wherein the first data transmission protocol is a proprietary or generic protocol. (col. 4, line 28)

Regarding **claim 26**, Jeong further discloses wherein the first data transmission protocol is a PCM- or TDM-based protocol. (col. 4, lines 51-52)

Regarding **claim 27**, Jeong further discloses wherein the first and/or the second data transmission protocol is a TCP/IP-based data transmission protocol. (col. 4, line 28)

Regarding **claim 29**, Jeong further discloses wherein one or more of the clients are connected to an Intranet data network. (Fig. 1; col. 4)

Regarding **claim 30**, Jeong further discloses wherein one or more of the clients are arranged outside the Intranet data network. (Fig. 1; col. 4)

Regarding **claim 31**, Examiner takes official notice that it is well known in the art at the time of the invention that one or more of the clients are configured to be connected to a further Intranet data network.

Regarding **claim 32**, Jeong in view of Avaramudan and Detampel further discloses wherein the telephone and/or video conference data processing device is connected to the Intranet data network. (Fig. 1; col. 4)

Regarding **claims 40 and 43**, the combination of Jeong, Avaramudan and Detampel discloses substantially all of the subject matter as previously recited in this office action. Jeong and Avaramudan do not explicitly disclose wherein the resource control device in the PBX selects from among further telephone and/or data processing devices in an external network that is directly or indirectly connected to the PBX. However Detampel further discloses the conference bridges residing within a PBX (para. 3) as well as external to the PBX (para. 5). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement the conference bridges external to the PBX to be used during conference bridge selection of Detampel in the PBX of Jeong and Avaramudan. Further it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. The motivation for doing so would have been to provide flexibility and cost saving.

6. Claims 33-36 are rejected under U.S.C. 103(a) as being unpatentable over Jeong, in view of Avaramudan, et al and Detampel, et al, and further in view of Potter, et al (US Pub. 2001/0043608).

Regarding **claim 33**, the combination of Jeong, Avaramudan and Detampel discloses all of the subject matter as recited previously in this office action except wherein a further telephone and/or video conference data processing device supporting the first data transmission protocol is provided which can be used instead of the telephone and/or video conference data processing device. Potter from the same or

similar fields of endeavor discloses a virtual PBX supporting supplementary services such as conference calling using H.323 (para. 29, 35-48). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement H.323 as suggested by Potter in the conference bridge in the PBX of Jeong, Avaramudan and Detampel during the selection of the conference bridge. The motivation for doing so would have been to support conference calling for different protocols.

Regarding **claim 34**, Jeong in view of Avaramudan, Detampel and Potter further discloses wherein the further telephone and/or video conference data processing device is connected to the Intranet data network, or wherein the further telephone and/or video conference data processing device is arranged outside the Intranet data network. (Fig. 1; col. 4)

Regarding **claim 35**, the combination of Jeong, Avaramudan and Detampel discloses all of the subject matter as recited previously in this office action except wherein an additional telephone and/or video conference data processing device supporting the second data transmission protocol is provided, which can be used instead of the telephone and/or video conference data processing device. Potter from the same or similar fields of endeavor discloses a virtual PBX supporting supplementary services such as conference calling using CSTA (para. 29, 35-48). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement CSTA as suggested by Potter in the conference bridge in the PBX of Jeong, Avaramudan and Detampel during the selection of the conference bridge. The

motivation for doing so would have been to support conference calling for different protocols.

Regarding **claim 36**, Jeong in view of Avaramudan, Detampel and Potter discloses wherein the additional telephone and/or video conference data processing device is connected to the Intranet data network, or wherein the additional telephone and/or video conference data processing device is arranged outside the Intranet data network is connected to a further Intranet data network. (Fig. 1; col. 4)

5. Claim 41 is rejected under U.S.C. 103(a) as being unpatentable over Jeong (US 6,801,540), in view of Avaramudan, et al (US 6,584,076), and further in view of Detampel, et al. (US Pub. 2001/0002927), and further in view of Pinard, et al (US 6,819,665).

Regarding **claim 41**, Jeong discloses a system, comprising:
an interface in a gatekeeper module supporting both the first, and also a second data transmission protocol, the gatekeeper module converting received data from the second to the first data transmission protocol (H.323 gateway converting PSTN signals and H.323 signals per col. 4, lines 51-61; call converter converting between H.323 and proprietary protocols per col. 4, lines 20-50; Fig. 1)

Jeong does not explicitly disclose:
a plurality of telephone and/or video conference data processing devices supporting a first data transmission protocol;

the gatekeeper module forwarding converted data to one of the telephone and/or video conference data processing devices, wherein clients using the first data transmission protocol and clients using the second data transmission protocol can simultaneously use said one of the telephone and/or video conference data processing devices; and

a resource control device which in cases in which a request cannot be processed by said one of the telephone and/or video conference data processing devices due to data traffic loading thereof, causes another of the telephone and/or video conference data processing devices to take over the request.

Avaramudan from the same or similar fields of endeavor discloses:

a plurality of telephone and/or video conference data processing devices supporting a first data transmission protocol; (conference bridges communicating with device servers using a common call control protocol per col. 3, line 53 to col. 4, line 36, col. 4, line 51 to last line)

the gatekeeper module forwarding converted data to one of the telephone and/or video conference data processing devices, wherein clients using the first data transmission protocol and clients using the second data transmission protocol can simultaneously use said one of the telephone and/or video conference data processing devices; (device server translating protocol of device to a common control protocol to communicate with conference bridge per col. 3, line 53 to col. 4, line 36, col. 4, line 51 to last line; devices with specific signaling protocols are in a conference call through use of the conference bridge per col. 4, lines 16-29, col. 7, lines 8-24)

Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to implement the conference bridges and call coordinator as suggested by Avaramudan in the PBX of Jeong since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. The motivation for doing so would have been to support conference calling in the PBX.

The combination of Jeong and Avaramudan discloses substantially all of the subject matter as recited above. Jeong does not explicitly disclose:

a resource control device which in cases in which a request cannot be processed by said one of the telephone and/or video conference data processing devices due to data traffic loading thereof, causes another of the telephone and/or video conference data processing devices to take over the request.

However Avaramudan discloses a call coordinator selecting conference bridge as function of capabilities to achieve the desired conference call (col. 6, lines 42-59), and reassigning an existing conference call to another conference bridge (col. 7, lines 25-42). It is obvious to one of ordinary skill in the art at the time of the invention that a conference bridge, a system resource, must be available to be selected to set up a conference call. Furthermore, Detampel from the same or similar fields of endeavor discloses determining if sufficient ports are available (Fig. 5, element 503) and accordingly selecting a conference bridge considering load control and routing cost and using criteria including availability, load control, least-cost routing and component failure, for example, selecting one with the most available conferencing ports (para. 5, 57). Thus it would have been obvious to the person of ordinary skill in the art at the

time of the invention to combine the PBX with conference bridges of Jeong and Avaramudan with the conference bridge selection of Detampel by selecting another conference bridge depending on data traffic loading. Further it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. The motivation for doing so would have been to provide flexibility and cost saving.

The combination of Jeong, Avaramudan and Detampel discloses a system, as recited above, but not a computer comprising the devices, the interface in a gatekeeper module and the resource control device. However, Pinard ("PBX Implemented Using H.323 Gatekeeper") from the same or similar fields of endeavor discloses implementing H.323 standard, including the H.323 gatekeeper, in a PBX with full functionality (col. 2, lines 10-18). Thus it would have been obvious to the person of ordinary skill in the art at the time of the invention to combine the system of Jeong, Avaramudan and Detampel with the network PBX of Pinard by integrating the components into a computer since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. The motivation for doing so would have been to incorporate an emerging standard for multi-media communication to voice communications traditionally implemented in a PBX.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form 892).

8. Applicant's amendment filed 3/26/08 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luat Phung whose telephone number is 571-270-3126. The examiner can normally be reached on M-Th 7:30 AM - 5:00 PM, F 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. P./

Examiner, Art Unit 2616

/Huy D. Vu/

Supervisory Patent Examiner, Art Unit 2616